

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19091
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On August 10, 2005, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) [Redacted] (petitioner) for the years 2000, 2001, 2002, and 2003, proposing Idaho income tax, penalty, and interest in the total amount of \$38,597.

On October 10, 2005, a timely protest and petition for redetermination was filed by the petitioner. An informal hearing was not requested by the petitioner. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

In the petitioner's protest letter dated October 10, 2005, he stated that the NOD did not reflect deductions he was legally able to take. He said the company had a series of events that delayed filing its returns but they were getting ready to take [Redacted] to the CPA and it should be complete by December 31, 2005.

The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review.

On October 25, 2006, the petitioner's representative provided the Commission with the petitioner's Idaho and U.S. individual income tax returns for the years 2000, 2001, 2002, and 2003. The returns the petitioner has filed appear to be more accurate than the provisional returns prepared by the Tax Enforcement Specialist. The returns will be processed in the next few weeks. These

returns will be subject to the normal review process and the three-year statute of limitations, beginning the date the returns were submitted.

The petitioner's returns for the years 2001 and 2002 resulted in refunds. However, Idaho Code § 63-3072(c) provides for a limit on the time allowed to claim a refund.

63-3072. Credits and refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions. (Emphasis added.)

Idaho Code § 63-3024A defines the credit and the time allowed to apply for a refund:

63-3024A. Credits and refunds. -- (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of twenty dollars (\$20.00) for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer . . .

(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:

- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or
- (ii) the 15th day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)

The petitioner's 2001 and 2002 returns had due dates of April 15, 2002, and April 15, 2003, respectively. Since the petitioner's 2001 and 2002 returns were received October 25, 2006, well outside the three-year statute of limitations, the Commission would normally deny all of these refunds. However, since the NOD in this case was issued prior to the expiration of the three-year statute of limitations for tax year 2002, the period of limitations is suspended. Idaho Code section 63-3072(i) states:

The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

Therefore, the petitioner's refund for tax year 2002 will be refunded.

The petitioner has provided the Commission with his actual Idaho income tax returns for all years in question. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated August 10, 2005, as MODIFIED, are hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX DUE</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$458	\$115	\$178	\$ 751
2001	0	0	0	0
2002	(210)	0	0	(210)
2003	347	87	68	<u>502</u>
			TOTAL DUE	<u>\$1,043</u>

Interest is computed through June 13, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]
[Redacted]

Receipt No.
